

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-550

November 8, 2004

SEARSPORT WATER DISTRICT
Request for Approval of Transfer of Assets
To Swap a Portion of Land in Prospect
To a Parcel of Land in Searsport

CORRECTED¹ ORDER

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

I. SUMMARY

In this Order, we find that our authorization is not required for the Searsport Water District (District) to swap a portion of its property in Searsport, Maine for a similar sized parcel located in Prospect, Maine.

II. BACKGROUND

On August 13, 2004, the District filed with the Commission its request for approval to swap 2.73 acres of its property in Searsport for a similar sized parcel owned by Michael D. and Stacy L. Thibodeau located in Prospect. The land in Prospect is within the District's Intake Protection Zone.

III. DECISION

Generally, a utility must seek Commission authorization before it sells or encumbers property that is useful in the performance of its duties to the public, 35-A M.R.S.A. §1101(1). However, under 35-A M.R.S.A. §1101(4), transactions involving utility property that do not materially affect the ability of a utility to perform its duties to the public do not require Commission authorization. In this instance, the District represents that the land swap will not affect its ability to serve customers. In fact, the land swap will allow the District better control of its reserve water source. Therefore, we find that our authorization is not required. We further find that the conveyance does not

¹ The correction is to the location of the parcels of land.

trigger the notice and right of first refusal provisions contained in 35-A M.R.S.A. § 6109 because it is not greater than five contiguous acres as provided for in the definition of water resource land in Chapter 691§1(E).

Dated at Augusta, Maine, this 8th day of November, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.